

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH P. GUTIERREZ,

No. C 11-4527 YGR (PR)

Petitioner,

**ORDER OF DISMISSAL WITHOUT
PREJUDICE**

vs.

UNITED STATES OF AMERICA,

Respondent.

Petitioner, a federal detainee, filed this civil action concerning his detention in connection with the revocation of his federal parole. He commenced the action by filing a "Motion for Appt. of Counsel" (docket no. 1), and he subsequently filed a 28 U.S.C. § 2255 motion "attacking a sentence imposed by that court" (docket no. 6).


Petitioner's case was initially assigned to the Honorable Susan Illston. In an Order dated December 14, 2011, after consideration of Petitioner's filings, Judge Illston dismissed his action with leave to file either a petition for writ of habeas corpus under 28 U.S.C. § 2241 or a petition for writ of mandamus. She ordered that such a petition must be filed no later than January 20, 2012. (Dec. 14, 2011 Order at 5.)

On January 18, 2012, this case was reassigned to the undersigned judge. On January 19, 2012, Petitioner requested an extension of time to respond to the December 14, 2011 Order. In an Order dated January 26, 2012, Petitioner's request was granted, and the time during which he was permitted to respond was extended for an additional thirty dates from the date of that Order. (Jan. 26, 2012 Order at 1.) Petitioner was informed that if he failed to respond within the thirty-day deadline, this case will be closed for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure. (Id.)

1 More than thirty days have passed, and Petitioner has failed to file either a petition for
2 for writ of habeas corpus under 28 U.S.C. § 2241 or a petition for writ of mandamus. Accordingly,
3 this action is DISMISSED without prejudice. The Clerk of the Court shall enter judgment, terminate
4 all pending motions, and close the file.

5 IT IS SO ORDERED.

6 DATED: March 6, 2012


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

United States District Court
For the Northern District of California